

June 13, 2019

Ms. Nicole Reedy, RLA
Morris & Ritchie Associates, Inc.
1220-C East Joppa Road
Suite 505
Towson, Maryland 21286

Re: Yorktowne Plaza Redevelopment
Forest Conservation Variance
Tracking #03-19-3023

Dear Ms. Reedy:

A request for a variance from the Baltimore County Code, Article 33 - Environmental Protection and Sustainability, Title 6 - Forest Conservation was received by this Department on March 25, 2019. The request seeks a variance from Section 33-6-111 in order to subtract the impervious surface from the net tract area thereby basing afforestation requirements solely on the pervious surface area and to remove a specimen, non-native Bradford Pear tree (*Pyrus calleryana*). The tree is 34-inches DBH and in poor condition. The impacts are associated with the redevelopment of several buildings and the reconfiguration of an existing parking lot within a long-standing retail center. Currently, the property is in excess of 92% impervious coverage and is far removed from forest, stream and wetland resources.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The petitioner is seeking to undertake renovation and reconfiguration of portions of the current shopping center that existed well prior to the effective date of the Forest Conservation Law. Although full application of the law may result in a financial hardship, it would not deprive the petitioner of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to a specimen sized landscape tree within the proposed limit of disturbance and the cost of fully complying with Forest Conservation Law for the redevelopment of an aging shopping center rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of a mix of medium and high-density residential, commercial, and industrial areas. The property is currently being utilized as a shopping center and will continue to be used as such. Additionally, the area being redeveloped will comply with Baltimore County's landscape requirements. Therefore, redevelopment of the site and removal of a single specimen tree in poor condition will not alter the essential character of this neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any wetlands, streams, floodplains, associated buffer areas, or forest. Furthermore, the redevelopment is proposing to comply with environmental site design (ESD) stormwater management requirements. As a result, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. No forest or riparian buffers will be impacted by the proposed project. The only specimen tree impact is removal of a single non-native Bradford Pear in poor condition in the landscape strip between the parking lot and Cranbrook Road. Moreover, ESD water quality management will be evaluated in redeveloping the site, which is 92.5% impervious area. Finally, Maryland State Law allows projects involving redevelopment of predominantly impervious surface but that do not qualify for a waiver to subtract the impervious surface from the gross tract area on the Forest Conservation Worksheet. Consequently, this Department finds that

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this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following:

1. This project's 0.1-acre afforestation obligation, based on this variance, shall be met via either purchase of credit in an EPS-approved forest bank or by payment of a \$2,395.80 fee-in-lieu to Baltimore County. A bank authorization letter, which shall serve as the instrument of agreement with the bank's representative, has been enclosed for your use. Once signed by the bank's representative, this letter shall be returned to EPS documenting purchase of this credit prior to issuance of any grading permit. If no banks are available, the fee-in-lieu check shall be made payable to Baltimore County and submitted to EPS prior to issuance of any grading permit.
2. The following note must be on all subsequent plans for this development project:

"A variance was granted on June 13, 2019 by the Baltimore County Department of Environmental Protection & Sustainability to remove a non-native specimen tree in poor condition and to base the afforestation requirement solely on the pervious surface acreage. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met including providing for 0.1-acre of afforestation."
3. A final Forest Conservation Plan for the property shall be submitted to Environmental Impact Review (EIR) and approved prior to any EIR approval of any grading and sediment control plan or permit for this property.
4. This variance approval does not exempt future development activities at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

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If you have any questions regarding this correspondence, please call Mr. Michael S. Kulis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/msk

Enclosure

c. Cedar-Yorktowne LLC, Owner
Ms. Marian Honeczy, Maryland Dept. of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Cedar-Yorktowne LLC Representative's Signature

Date

Printed Name